



Attorney General  
1275 WEST WASHINGTON  
Phoenix, Arizona 85007

Robert R. Corbin

December 22, 1982

LAW LIBRARY  
ARIZONA ATTORNEY GENERAL

Mr. Douglas S. Stanley  
Hunt, Stanley, Hossler & Rourke, Ltd.  
Attorneys at Law  
330 West 24th Street  
P.O. Box 2919  
Yuma, AZ 85364

Re: I82-140 (R82-165)

Dear Mr. Stanley:

We decline to review your opinion of October 11, 1982, concerning whether A.R.S. § 13-3620 requires school personnel to report an injury to a student caused by another student.

Sincerely,

A handwritten signature in cursive script that reads "Bob Corbin".

BOB CORBIN  
Attorney General

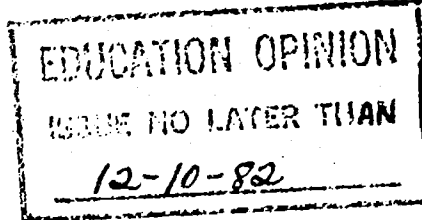
BC/VBW/kb

HUNT, STANLEY, HOSSLER & ROURKE, LTD.

ATTORNEYS AT LAW

GERALD W. HUNT  
DOUGLAS S. STANLEY  
DAVID J. HOSSLER  
H. BERKELEY ROURKE  
W. KENT FOREE

330 WEST 24TH STREET  
POST OFFICE BOX 2919  
YUMA, ARIZONA 85364  
(602) 783-0101



10-18-82 ypc  
WHITEHEAD  
R82-165

October 11, 1982

Office of the Attorney General  
State Capitol  
Phoenix, AZ 85007

Re: Attorney General Opinion I-82-086 (R82-031)

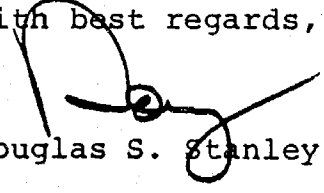
Dear Mr. Corbin:

Enclosed herewith is an opinion letter as the attorney  
for Yuma School District No. 1, Yuma County, Arizona.

I am respectfully requesting pursuant to Attorney  
General's Opinion I79-186 and A.R.S. 15-253 that  
you concur, revise or decline to review this opinion.

Thank you for your consideration in this matter.

With best regards,

  
Douglas S. Stanley

enc  
fn

cc: Board of Trustees and Superintendent, Yuma School  
District No. 1  
David Ellsworth, Yuma County Attorney

HUNT, STANLEY, HOSSLER & ROURKE, LTD.

ATTORNEYS AT LAW

GERALD W. HUNT  
DOUGLAS S. STANLEY  
DAVID J. HOSSLER  
H. BERKELEY ROURKE  
W. KENT FOREE

330 WEST 24TH STREET  
POST OFFICE BOX 2919  
YUMA, ARIZONA 85364  
(602) 783-0101

EDUCATION OPINION

ISSUE NO LATER THAN

12-10-82

10-18-82 pc  
WHITEHEAD  
R82-165

October 11, 1982

Dr. Thomas McCraley  
450 W. 6th Street  
Yuma, AZ 85364

Re: Attorney General Opinion I-82-086 (R82-031)

Dear Tom:

Reference the above and your question in regards to the opinion revision by the Attorney General Bob Corbin dated August 31, 1982, I have reviewed both Suzanne Laursen's letter of March 3, 1982 and Corbin's revision. There is no getting around what the Attorney General says that school personnel have a mandatory duty ". . . to report to peace officers or D.E.S. Protective Services, evidence of all non-accidental injury, sexual molestation, death, abuse, or physical neglect" (emphasis added). I-82-086

I assume for the purposes of this letter that we are concerned with "evidence of injury" of a student and not the ". . . sexual molestation, death, abuse or physical neglect which appears to have been inflicted upon such minor by other than accidental means. . .", because those latter problems are going to be quite evident by themselves. I have to assume even further that if a student falls down some stairs and hits his head and dies we are going to report that even though the statute indicates if the death was by accident you don't have to report it to a municipal or county peace officer. Looking however strictly to the question of injury of a student by another student, the key words in the Attorney General's last paragraph are ". . . evidence of all non-accidental injury. . .". Interpreting this I feel the Attorney General is stating that if a student is injured and we talk to that student and that student feels the injury was intentional and if there are witnesses that feel it was intentional then we are going to have to

-2-

report that evidence to the peace officers or D.E.S. Protective Service. If, however, the injured party is not certain nor are the witnesses certain then we have a discretionary call and it should in most cases be an accidental injury unless, of course, the perpetrator says otherwise. There is a fine line between the intent of doing an act and the intent in the ultimate injury and that should be made clear to our personnel. Just because a student intended to throw a rock at or near a child or even hit their foot to scare them, does not mean that they intended to injure that child when the rock went errantly and hit the child in the head. That is still an accident; however, if the child that is injured gives some evidence that the rock-throwing was intentional to injure him and not just to scare him or hit his shoes, then we have a report situation, if the "physical injury" as defined by A.R.S. 13-105.25 results in the "impairment of physical condition". The word "impair" means to diminish in quantity, value, excellence, or strength; damage, lessen (see New Merriam Webster Pocket Dictionary). Based on this definition we once again have a discretionary call by personnel as to whether the injury is such that there is an impairment. With this definition in mind I assume there will be a school nurse involved in that decision, along with the administration and I am quite confident in my mind that in 99% of the cases there will be no question as to their decision based on the evidence collected and the evidence of the injury, whether it be an abrasion, bruise or actually cutting of the skin. However, one of the key things in this whole procedure is that accurate records be kept of all such injuries whether accidental or allegedly done intentionally.

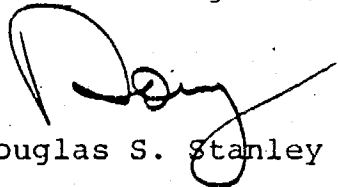
In order for this letter to be completely understandable I am attaching a copy of the statute A.R.S. 13-3620 which sets out the reporting procedure to the municipal or county peace officer or protective service of the State Department of Economic Security. As can be seen, the report must be made telephonically immediately or in person and should be followed by a written report. The contents of the report are set forth in paragraph A, subsections 1, 2 and 3. I would suggest that all such reports be made in triplicate so that the administrative office of each school receives one and so does the superintendent's office. At least I would assume that you would like someone in the superintendent's office maintaining a file of records as to such incidents.

HUNT, STANLEY, HOSSLER & ROURKE, LTD.  
ATTORNEYS AT LAW

-3-

Tom, if you or any personnel of the school district have any questions in regards to this letter or the statute please let me know and I will be glad to go over those; meanwhile, I am going to forward this letter on to the Attorney General for his concurrence or otherwise.

With best regards,



Douglas S. Stanley

enc.  
fn

cc: Attorney General Robert K. Corbin  
County Attorney David Ellsworth

## § 13-3619

## CRIMINAL CODE

## Title 13

erate corporal punishment to their wards, and there is no reason to distinguish between minors received from state department of corrections from state industrial school, from public schools, private parties, or other social agencies; as long as legal custody is in institution, it stands in loco parentis and has right to discipline through necessary and moderate corporal punishment. Op. Atty. Gen. No. 68-13.

of supervisors pursuant to § 11-207, even though juvenile is in custody of state institution or foster home under contract with department of corrections, but emergency care should be provided by county irrespective of length of residence, and juvenile court has jurisdiction to make such order for medical care of juvenile as it sees fit and to fix the financial responsibility therefor. Op. Atty. Gen. No. 68-27-L.

## 5. Health care

Indigent juvenile offenders who have resided in county for at least the preceding 12 months are eligible for non-emergency medical care by county board

In absence of contrary court order, department of corrections would not be financially liable to county for medical care provided by county to indigent juvenile offender under department's jurisdiction. Id.

**§ 13-3620. Duty to report nonaccidental injuries and physical neglect of minors; classification**

A. Any physician, hospital intern or resident, surgeon, dentist, osteopath, chiropractor, podiatrist, county medical examiner, nurse, psychologist, school personnel, social worker, peace officer or any other person having responsibility for the care of children whose observation or examination of any minor discloses evidence of injury, sexual molestation, death, abuse or physical neglect which appears to have been inflicted upon such minor by other than accidental means or which is not explained by the available medical history as being accidental in nature, shall immediately report or cause reports to be made of such information to a municipal or county peace officer or to the protective services of the state department of economic security. Such reports shall be made forthwith by telephone or in person forthwith, and shall be followed by a written report. Such reports shall contain:

1. The names and addresses of the minor and his parents or person or persons having custody of such minor, if known.

2. The minor's age and the nature and extent of his injuries or physical neglect, including any evidence of previous injuries or physical neglect.

3. Any other information that such person believes might be helpful in establishing the cause of the injury or physical neglect.

B. When such telephone or in-person reports are received by the municipal or county peace officer, they shall immediately notify the child protective services of the department of economic security and make such information available to them.

C. Any person required to receive reports pursuant to subsection A may take or cause to be taken photographs of the child and the

## Title 13.

## Ch. 36

## FAMILY OFFENSES

to § 11-207,  
in custody of  
under  
actions,  
be provided  
length of resi-  
has jurisdic-  
for medical  
fit and to fix  
lity therefor.

court order,  
would not be  
y for medical  
to indigent ju-  
partment's jur-

## and physical

eon, dentist,  
miner, nurse,  
ficer or any  
en whose ob-  
ce of injury,  
hich appears  
dental means  
tory as being  
reports to be  
or to  
security.  
person forth-  
reports shall

ents or person

is injuries or  
ries or physi-

might be help-  
glect.

ceived by the  
ely notify the  
e security and

to subsection  
child and the

vicinity involved. Medical examinations, including but not limited to, radiological examinations of the involved child may be performed.

D. Anyone participating in the making of reports required under the provisions of this section, or anyone participating in a judicial proceeding resulting from such reports, shall be immune from any civil or criminal liability by reason of such action unless such person acted with malice or unless such person has been charged with or is suspected of abusing or neglecting the child or children in question. The physician-patient privilege, husband-wife privilege or any privilege except the attorney-client privilege, provided for by professions such as the practice of social work or nursing covered by law or a code of ethics regarding practitioner-client confidences, both as they relate to the competency of the witness and to the exclusion of confidential communications, shall not pertain in any civil or criminal litigation in which a child's neglect, dependency, abuse or abandonment is an issue nor in any judicial proceeding resulting from a report submitted pursuant to this section.

E. A person who violates any provision of this section is guilty of a class 2 misdemeanor.

Added as § 13-842.01 by Laws 1964, Ch. 76, § 2. As amended Laws 1976, Ch. 171, § 3, eff. June 27, 1976. Renumbered as § 13-3620 by Laws 1977, Ch. 142, § 99, eff. Oct. 1, 1978. As amended Laws 1978, Ch. 201, § 235, eff. Oct. 1, 1978.

## Historical Note

The 1976 amendment rewrote subsec. A, which had read:

"A. Any physician, including a hospital intern or resident physician, whose examination of any minor discloses evidence of injury or physical neglect not explained by the available medical history as being accidental in nature, shall immediately report or cause reports to be made of such information to a municipal or county peace officer. Such reports shall be made forthwith by telephone or in person forthwith, and shall be followed by a written report. Such reports shall contain:

1. The names and addresses of the minor and his parents or person or persons having custody of such minor, if known.

2. The minor's age and the nature and extent of his injuries or physical neglect, including any evidence of previous injuries or physical neglect.

3. Any other information that the physician believes might be helpful in establishing the cause of the injury or physical neglect";

deleted former subsec. B, which read:

"B. When the attendance of the physician is pursuant to the performance of services as a member of the staff of a hospital or similar institution, he shall notify the person in charge of the institution or his designated delegate who shall make the necessary reports."; added subsecs. B and C; relettered the former subsec. C as subsec. D and rewrote the subsection, which had read:

"C. Anyone participating in the making of reports required under the provisions of this section, or anyone participating in a judicial proceeding resulting from such reports, shall be immune from any civil or criminal liability that might otherwise be incurred or imposed as a result of such actions. Notwithstanding the provisions of § 13-1802, paragraph 4, the physician-patient privilege shall not be a ground for excluding evidence regarding a minor's injuries or physical neglect, or the cause thereof in any judicial proceeding resulting from a report submitted pursuant to this section.";